IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 14556 of 2006(G)

PETITIONER:

R. MICHEL PAULRAJ, HSS TEACHER,
ST.PAUL'S HIGHER SECONDARY SCHOOL,
KOZHINJAMPARA, PALAKKAD DISTRICT,
RESIDING AT KOLAMADACHALLA, MENONPARA P.O.,
PALAKKAD DITRICT.

BY ADV. SRI.P.SANTHALINGAM
SRI.S.SHARAN

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY
TO GOVERNMENT, EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF HIGHER SECONDARY
EDUCATION, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM.

3. THE DISTRICT EDUCATIOAL OFFICER,
PALAKKAD.

4. THE MANAGER, ST.PAUL'S HIGHER
SECONDARY SCHOOL, KOZHINJAMPARA,
PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENIDX

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE JUDGMENT IN O.P.NO.11917/O1**
EXT.P2	**TRUE COPY OF THE ORDER NO.ACD.A2/21040/KSE/2000 DTD. 18-5-02**
EXT.P3	**TRUE COPY OF THE ORDER DTD. 09-08-2001 ISSUED BY THE DIRECTOR OF HIGHER SECONDARY EDUCAITON, HOUSING BOARD BLDG. TO R4**
EXT.P4	**TRUE COPY OF THE RELEVANT EXTRACT OF THE RESOLUTION RECOGNISED BY UNIVERSITY OF CALICUT.**
EXT.P5	**TRUE COPY OF THE ORDER DTD.25-11-88 ISSUED BY GOVT. OF INDIA**
EXT.P6	**TRUE COPY OF THE ORDER DTD. 17-12-01 ISSUED BY GOVT.OF KERALA**
EXT.P7	**TRUE COPY OF THE ORDER DTD. 25-04-06.**
EXT.P8	**TRUE COPY OF THE CIRCULAR NO.9/2005 DTD.7/5/2005 ISSUED BY SECRETARY, KERALA PUBLIC SERVICE COMMISSION, TRIVANDRUM**
EXT.P9	**TRUE COPY OF THE ORDER DTD. 26-11-84 ISSUED BY GOVT. OF KERALA**
EXT.P10	**TRUE COPY OF THE ORDER DTD. 18-6-85 ISSUED BY GOVT. OF KERALA**
EXT.P11	**TRUE COPY OF THE CERTIFICATE PASSED M.ED. DEGREE EXAMINATION BY CORRESPONDENCE COURSE FROM MADRAS UNIVERSITY.**
EXT.P12	**TRUE COPY OF THE ORDER DTD. 5-9-97 ISSUED BY GOVT. OF KERALA TO THE DIRECTOR OF PUBLIC INSTRUCTION.**
EXT.P13	**TRUE COPY OF THE ORDER DTD. 12-11-79 ISSUED BY GOVT. OF INDIA**
EXT.P14	**TRUE COPY OF THE ORDER DTD. 17-9-80 ISSUED BY GOVT. OF KERALA**
EXT.P15	**TRUE COPY OF THE ORDER DTD. 17-7-65 ISSUED BY GOVT. OF KERALA**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.14556 OF 2006

Dated this the 9th day of March, 2007

JUDGMENT

Petitioner challenges Ext.P7 order. Case of the petitioner in brief is as follows:

Petitioner joined as Higher Secondary School Teacher in an aided school with effect from 10/08/2000. He has passed B.Com. degree course in 1984 and M.A. (Economics) Degree in Madras University by correspondence in 1991. He has also passed B.Ed. Degree course by correspondence from Madras University in 1992 and M.Ed. Degree from Madras University by correspondence. There is reference to litigation and Ext.P1 is the judgment relating to the same. By Ext.P2 the approval was rejected on ground that the manager had not forwarded the original certificate along with the application. In Ext.P3 the Director has informed the manager that the appointment of the petitioner cannot be approved for the

reason that B.Ed. degree obtained by the petitioner is not recognised. Ext.P4 is produced to show that University of Calicut has resolved to recognise all the degree awarded by the UGC approved Universities. Ext.P5 is the communication addressed by Government of India to the Registrar of Annamalai University and therein it is stated that degrees/diplomas awarded by the Universities established by an Act of Parliament or State Legislature, Institutions deemed to be Universities shall stand automatically recognised for the purpose of employment under the Central Government. Ext.P7 is seen passed pursuant to the judgment of this court in O.P.No.31175/2002, therein the Director was asked to look into the case in the light of Ext.P3 letter issued by the Registrar, University of Madras to the University of Calicut and to take appropriate action. Thereafter there is reference to Govt. order dated 09/11/ 2001, the Special Rules and it is stated that one of the qualifications is B.Ed. in the concerned subject acquired after regular course from any of the Universities in Kerala or qualification reconised as equivalent thereto by the Universities

in Kerala. It is stated that petitioner has obtained M.A. in Economics with second class (correspondence), B.Ed. (correspondence) and M.Ed. obtained after distance education. It is stated that he has not cleared SET and seeking exemption to that examination on the basis of his correspondence M.Ed. Thereafter it is stated that petitioner failed to produce the equivalency certificate from the University of Calicut or any other Universities in Kerala recognising the correspondent B.Ed. and M.Ed. degree of University of Madras as equivalent to B.Ed./M.Ed. degree of the University. It is stated that after considering the aspects, it is clear that appointment cannot be approved and it is rejected as per the prevailing rules. The manager was directed to terminate the services of the petitioner. Petitioner produced documents as Exts.P13, P14, and P15.

2. Counter affidavit and reply affidavit are filed.

3. I heard learned counsel for the petitioner and learned Government Pleader also.

4. According to learned counsel for the petitioner,

petitioner was appointed on 10-08-2000. Petitioner relied on various decisions namely **Mohanan Nair v. State of** Kerala (1994 (2)KLT 537), **Subramanian v. State of Kerala** (2000(3)KLT 351), **Mujeeb Rahman v. State of** Kerala (2005(1)KLT 680) and **State of Kerala v. Suja Kumari** (2006(1)KLT 846). Learned counsel for the petitioner would also rely on the decision of the Apex Court in **Dr.B.L.Asawa v. State of Rajasthan and others** (1982 SCC 933). He would submit that a perusal of Ext.P4 would show that recognition has been granted to all degrees by the Calicut University and it does not matter that the petitioner obtained degree by correspondence course. He would further submit that there is relaxation given to certain persons and he relies on Exts.P13 and P14 and P15 in this regard. He would also rely on the fact that he has obtained M.Ed. and he would submit that under the Rules possession of M.Ed. exempts such a person from obtaining B.Ed. He also submits that if relaxation is given, it should be granted on an equal basis to similarly situated persons. In this regard he relies on the decision reported in

Principal, King George's Medical College, Lucknow v. Dr.Vishan Kumar Agarwal and another (1984 (1)SCC 416.

5. Learned Government Pleader on the other hand submits that in terms of the Rules it is not sufficient that B.Ed. degree obtained from another University be merely recognised. It should be recognised as equivalent by the University in the State of Kerala. She would submit that the decisions relied on by the petitioner are distinguishable and that the decisions turned on the special facts therein. She would further point out that Ext.P4 was in the year 2004 and it cannot help the petitioner as the appointment of the petitioner, even according to the petitioner, is with effect from 10-08-2000.

6. Ext.P7 order, which is the order passed pursuant to the judgment of this court, proceeds on the basis of G.O.(P)No.331/01/G.Edn. dated 9-11-01 prescribing the special rules. Apparently it is with reference to the same that entire observations are made and the final order passed. The crucial fact that appears to be overlooked by the Director in passing Ext.P7 in

the manner he has done is that the petitioner was appointed with effect from 10-08-00. It is prior to the enactment of the rules. Undoubtedly, at the time of his appointment there were executive orders governing the appointment.

7. In such circumstances, I feel that the very basis of the order falls to the ground. In other words, the Director has approached the issue as if he was considering the question of approval with regard to the appointment after the enactment of the Rules. For this reason, the matter has to be reconsidered. Accordingly, Ext.P7 is quashed and the Director will pass fresh orders in accordance with law after affording an opportunity of hearing to the petitioner or his representative and any other affected party within a period of three weeks from the date of receipt of a copy of this judgment. It is open to the petitioner to rely on all the contentions available to him under law.

K.M.JOSEPH
JUDGE

sv.